

Minutes  
**Workers' Compensation Study Project**

Status Meeting, April 17, 2006  
1:30-3:30 pm, Conference Room A/B  
Facilitator: Anne Wolfinger

**Project team present:** Lt. Governor Bohlinger, Will Hammerquist, Jerry Keck, Dore Schwinden, Anne Wolfinger, Diana Ferriter, Dave Elenbaas, Jamie Queen, Tyler Turner, Keith Messmer, Jeanne Johns, Debbie Blossom, Connie Ferriter, Wade Wilkison, Mari Kindberg, Chris Catlett

**Others:** Larry Jones (Liberty NW), Laurence Hubbard, Peter Strauss, Matthew Cohn (Montana State Fund), John Gottbreht (Putman & Associates), Jamie Haun (Rosauer's), Webb Brown (Montana Chamber of Commerce), Tana Wilcox (NorthWestern Energy), Scott Mitton (Stimson Lumber Co.), Lynn Armstrong (Anchor Insurance Co.), George Wood (Montana Self-Insurers), Marvin Jordan, (Montana Contractor Comp Fund), Jacqueline Lenmark (American Insurance Association), Bob Worthington (MMIA), Joe O'Rourke (F.H. Stoltze Land & Lumber), Bob Olson (MHA), Dick Martin (Fair Claim)

**Introductions/Welcoming**

Lt. Governor Bohlinger welcomed everyone and explained the purpose of the Study Project.

Keith Kelly explained that one of the first things he heard when he became commissioner was that the workers' compensation logging rate in Montana was significantly higher than the Idaho rate. The recent Economic Seminar brought the issue to a head and this study is needed to get actual data and statistics to find out where the real truth lies.

**Data and Surveys**

Anne Wolfinger reported the project team is collecting data and surveys ranking Montana's workers' compensation against other states. She thanked Webb Brown for bringing a study to our attention and encouraged anyone else who ran across one to bring it to her attention.

**Medical Metrics Update**

Jerry Keck and Jeanne Johns presented information on medical cost drivers and proposed survey questions that will be used to survey each of the 12 states in the study. The audience was asked for suggestions on refining the survey questions.

Dick Martin said that from a claimant's point of view finding doctors to treat them is a real problem. He is interested in availability of providers as fee schedules get tighter and tighter. He said that the initial treating doctor isn't usually a problem, but it is to find someone who will carry the case over the life of the claim. He believes that the lack of doctors willing to do workers' compensation work causes delays and adds to the cost of treatment.

Marvin Jordan would like to include a question to find out if any states pay for post-accident substance testing and if they can deny the claim if the test comes back positive.

Larry Jones suggested the question “What is the legal standard for the insurer’s obligation to provide medical services?” should be clarified to evaluate the treating physician’s obligation.

Bob Olson pointed out that it is the employer’s obligation to provide coverage. He questioned whether a medical provider is obligated to provide care. He suggested changing the wording on another question to “Do you pay a higher rate to critical hospitals than other hospitals?” in order to compare what they are paying.

Peter Strauss suggested adding a question to identify states’ ability to close out medical costs without accepting liability.

Jerry and Jeanne covered the prescription drug alternatives and proposed questions.

Peter Strauss suggested clarifying one question to “how are prescription drug *charges*” (not *costs*) “paid?” He also emphasized the role that pharmacy benefit managers fill.

Bob Olson questioned whether a study had ever been done comparing what we are paying now to what would be paid if treatment guidelines were in place.

Lanny Hubbard responded that State Fund would have data, but it would be very difficult to analyze in order to answer Bob’s question from injury to maximum medical improvement. He commented that the recent WCRI study concluded that physician choice is not the cost factor that it was once thought to be. Physician availability is more of an issue. In Montana we don’t have occupational medicine doctors to choose from. Could we include a question about the availability of this specialty in the other states?

Dick Martin commented that with respect to outcomes there are a number of possible meanings. Is the outcome to get the injured worker back to work? Is the injured worker content with the treatment received? If the worker doesn’t like their treatment it means we have a bigger problem to deal with. Who is the customer?

George Wood responded that if you pay money for dissatisfaction you create dissatisfaction.

Lanny Hubbard pointed out that the medical community has developed criteria to evaluate patient satisfaction.

Jerry Keck stated that a recent WCRI study showed that states that paid the most had the lowest injured worker satisfaction, contrary to what you would guess would happen. He asked that the audience review the proposed questions and provide any feedback by May 1<sup>st</sup>.

## **Workers' Compensation Policy Review Template for Comparing States' Workers' Compensation Benefits and Costs**

Diana Ferriter discussed the Workers' Compensation Policy Review template developed by John Burton. Montana data was compared against the other 12 states being studied using the template and Diana shared the results.

The template includes statutory benefits, benefits actually paid and employer costs. The analysis showed that there is an inconsistency between the paid and statutory benefits. The statutory benefits rank low while the paid benefits rank higher than most of the study states. Her conclusion is that Montana is a high benefit, high cost state. She pointed out that Burton cautions against drawing conclusions from this analysis since it does not include an evaluation of benefit adequacy.

George Wood commented that Burton was saying no matter what the template shows it should be ignored.

Lanny Hubbard stated that NCCI says the driver in the Montana system is the frequency of PPD benefits which are much higher in Montana than the regional average. He also feels that the judicial environment is an important consideration.

Mathew Cohn noted that data was lacking for some states and asked if we can get it from those states.

Jerry responded that we have good contacts in Washington and North Dakota and are working to develop one in Wyoming so we can get the missing data.

George Wood pointed out that Wyoming, Oregon and Washington all subsidize their workers' compensation programs. Wyoming uses their oil and gas revenue, Oregon subsidizes with an employee/employer tax, and Washington subsidizes their medical benefits.

Dick Martin questioned where the \$3.41 index rate came from and if it was accurate in the Oregon Premium Rate Ranking chart.

Mari Kindred explained that it was a compilation of State Fund and the private carriers data that is supplied to Oregon and they manipulate it.

Tyler Turner said the index rate is not accurate in his opinion as Oregon takes the numbers and uses Oregon's top payroll class codes which may be totally different than Montana's top class codes. He would like to replicate the study using all of the class codes and the actual state payroll.

Peter Strauss said that NCCI has done the analysis that Tyler is talking about and the results were the same.

**Closing Remarks**

Anne Wolfinger reported that a web site has been developed and the materials from all of the meetings are being posted there. The web site is:

<http://erd.dli.mt.gov/wcstudyproject/wcstudyproject.asp>

Jerry Keck stated the project team will be filling in the missing data points and finalizing the medical questions by May 1<sup>st</sup>. He has also had a conversation with Rick Victor at WCRI. Rick does not feel that WCRI is well suited to do the state comparison analysis for us as they do not want to look at premiums. WCRI could do an administrative inventory for us and Jerry will be talking with insurers about possibly helping to fund that work. He will also be providing John Burton with the information we have developed using his template and get his comments. He also reported that a request for proposals is being put out to assist the Division in moving from the relative value to the resource-based relative value system for the non-hospital medical fee schedule.

The next status meeting will be May 15.